

40000-0046

RECEIVED 10/727,134  
CENTRAL FAX CENTER  
FEB 28 2008

REMARKS

This is a full and timely response to the non-final Official Action mailed **November 28, 2007** (the "Office Action" or "Action"). Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

Claim Status:

By the forgoing amendment, the specification and various claims have been amended. Additionally, new claim 65 has been added, and original claims 6, 7, 27, 28, 34, 35, 50, 51 and 61-64 have been cancelled. Thus, claims 1-5, 8-26, 29-33, 36-49, 52-60 and 65 are currently pending for further action.

Objection to Specification:

In the outstanding Office Action, the Examiner objected to the specification as allegedly failing to provide proper antecedent basis for claims 7, 28, 38 and 54. While Applicant does not necessarily agree that the specification was so lacking, to expedite the prosecution of this application, Applicant has herein amended paragraph 0029 of the specification to include the language of claim 7, with some edits for context.

Because this subject matter and language were included in the originally filed claims, no new matter has been added. Consequently, following entry of this amendment, the objection to the specification should be reconsidered and withdrawn.

40000-0046

10/727,134

Prior Art:

Claims 1, 13, 15-17, 19, 32, 44, 46-48 and 60 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,288,716 to Humpleman et al. ("Humpleman"). For at least the following reasons, this rejection should now be reconsidered and withdrawn.

With respect to claim 1, claim 1 has been amended to include the language and subject matter of cancelled claims 6 and 7. Specifically, claim 1 now recites:

A system for saving settings of an audiovisual system, comprising:  
a first audiovisual device comprising a setting; and  
a second audiovisual device communicatively coupled to said first audiovisual device;  
wherein said second audiovisual device is configured to retrieve said setting from said first audiovisual device and save said setting of said first audiovisual device upon a save event;  
*wherein said save event includes a shutdown of at least one of said first audiovisual device and said second audiovisual device; and*  
*wherein said second audiovisual device automatically saves said setting upon said shutdown.*

(Emphasis added).

Support for the amendment to claim 1 can be found in Applicant's originally filed specification at, for example, paragraphs 0029 and 0033 and claim 7.

Because claim 7 was not rejected under 35 U.S.C. § 102 as anticipated by Humpleman, this rejection under § 102 is now moot as to claim 1. Rather, claims 6 and 7 were rejected under 35 U.S.C. § 103(a) as unpatentable over the teachings of Humpleman in combination with those of U.S. Patent No. 6,072,535 to Kearns ("Kearns"). Therefore, it may be presumed that this rejection under § 103 would now apply to amended claim 1. If this were the case, the rejection should be reconsidered and withdrawn for at least the following reasons.

40000-0046

10/727,134

As cited in the Office Action, Humpleman teaches, for example, "saving a Macro to perform all the steps for recording a program." (Action, p. 3). Thus, Humpleman teaches the creation of a "macro" that can then be executed to perform a desired function. Humpleman clearly does not teach or suggest the claimed system in which a "second audiovisual device automatically saves [a] setting [from another, first audiovisual device] upon said shutdown" "of at least one of said first audiovisual device and said second audiovisual device."

Accordingly, the Action cites to Kearns, stating that "Kearns discloses shutdown a device (e.g., using remote control button 26 to turn off TV)." (*Id.*). The Office Action concedes, however, that "both Humpleman and Kearns fail to disclose saves setting upon shutdown." (*Id.*).

Nevertheless, according to the Action, "Official Notice is taken that a device automatically saves setting upon shutdown which is well known in the art (e.g., turn on a television, the channel display is the same channel when last time turn off)." (*Id.*).

Applicant notes, however, that this Official Notice relates to a device that saves *its own setting* upon shutdown. This is *not* what is claimed. Rather, claim 1 recites two different audiovisual devices where a "second audiovisual device is configured to retrieve said setting from said first audiovisual device and save said setting of said first audiovisual device." This subject matter is clearly not covered by the Official Notice taken.

Thus, Humpleman teaches creating a macro to duplicate commands for a particular functionality. Kearns teaches a remote control unit with an ON/OFF button for a television. The Official Notice describes a television that stores its own setting, for example, the channel being watched, when the television is turned off. These references taken in any combination clearly do not teach or suggest the system of claim 1 in which a "second audiovisual device

40000-0046

10/727,134

automatically saves [a] setting [from another, first audiovisual device] upon said shutdown”  
“of at least one of said first audiovisual device and said second audiovisual device.”

Under the analysis required by *Graham v. John Deere*, 383 U.S. 1 (1966) to support a rejection under § 103, the scope and content of the prior art must first be determined, followed by an assessment of the differences between the prior art and the claim at issue in view of the ordinary skill in the art. In the present case, the scope and content of the prior art, as evidenced by Humpleman, Kearns and the Official Notice taken, clearly did not include the claimed system in which a “second audiovisual device automatically saves [a] setting [from another, first audiovisual device] upon said shutdown” “of at least one of said first audiovisual device and said second audiovisual device.” This subject matter and its advantages to a user of the system are entirely outside the scope and content of the cited prior art. Consequently, the cited prior art will not support a rejection of claim 1 under 35 U.S.C. § 103 and *Graham*.

Claims 2-5; 8-11, 14, 18, 20-26, 30, 31, 33-36, 39-42, 45, 49-52, 55-58 and 61-64 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combined teachings of Humpleman and U.S. Patent App. Pub. No. 2003/0066080 to Kamieniecki (“Kamieniecki”).

With respect to claim 18, claim 18 has been amended herein to include the recitations and language of cancelled claims 27 and 28. Specifically, claim 18 now recites:

An audiovisual host device, comprising:  
an interface for communicatively coupling to an audiovisual device, wherein said audiovisual device includes a setting;  
a computer-readable medium; and  
a processor communicatively coupled to said interface and said computer-readable medium;  
wherein said processor is configured to:

40000-0046

10/727,134

receive said setting from said interface upon a save event;  
store said setting to said computer-readable medium upon said save event;  
recall said setting from said computer-readable medium upon a restore event; and  
communicate said recalled setting to said interface upon said restore event, wherein said recalled setting is configured to be restored to said audiovisual device  
*wherein said save event includes a shutdown of at least one of said first audiovisual device and said second audiovisual device; and*  
*wherein said processor automatically saves said setting upon said shutdown.*  
(Emphasis added).

Because claim 28 was not included in the rejection under 35 U.S.C. §103 based on Humpleman and Kamieniecki, this rejection under § 103 is now moot as to amended claim 18. Rather, claims 28 and 29 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combined teachings of Humpleman, Kamieniecki and Kearns. Therefore, it may be presumed that this rejection under § 103 would now apply to amended claim 18. If this were the case, the rejection should be reconsidered and withdrawn for at least the following reasons.

In applying Humpleman, Kamieniecki and Kearns to claim 28, the Office Action relies on the same Official Notice used to reject claim 7 as addressed above. (Action, p. 14). Applicant notes, again, that this Official Notice relates to a device that saves *its own setting* upon shutdown. This is *not* what is claimed. Rather, claim 18 now recites two different devices, a host device and an audiovisual device, where a processor of the host device “receive[s] said setting [of the audiovisual device] from said interface upon a save event” “wherein said save event includes a shutdown of at least one of said host device and said audiovisual device; and wherein said processor automatically saves said setting upon said shutdown.” As demonstrated above, this subject matter is not taught or suggested by the cited prior art.

40000-0046

10/727,134

In sum, Humpleman teaches creating a macro to duplicate commands for a particular functionality. Kamieniecki is directed to a method and apparatus for automatic set-up of electronic devices. (Kamieniecki, title). Kearns teaches a remote control unit with an ON/OFF button for a television. The Official Notice describes a television that stores its own setting, for example, the channel being watched, when the television is turned off. (Action, p. 14). These references taken in any combination clearly do not teach or suggest the system of claim 18 in which a processor of the host device "receive[s] said setting [of the audiovisual device] from said interface upon a save event" "wherein said save event includes a shutdown of at least one of said host device and said audiovisual device; and wherein said processor automatically saves said setting upon said shutdown."

Under the analysis required by *Graham v. John Deere*, 383 U.S. 1 (1966) to support a rejection under § 103, the scope and content of the prior art must first be determined, followed by an assessment of the differences between the prior art and the claim at issue in view of the ordinary skill in the art. In the present case, the scope and content of the prior art, as evidenced by Humpleman, Kearns and the Official Notice taken, clearly did not include the claimed system in which a "second audiovisual device automatically saves [a] setting [from another, first audiovisual device] upon said shutdown" "of at least one of said first audiovisual device and said second audiovisual device." This subject matter and its advantages to a user of the system are entirely outside the scope and content of the cited prior art. Consequently, the cited prior art will not support a rejection of claim 18 under 35 U.S.C. § 103 and *Graham*.

40000-0046

10/727,134

As indicated above, independent claims 32 and 48 were rejected as anticipated under 35 U.S.C. § 102 by Humpleman. For at least the following reasons, this rejection should now be reconsidered and withdrawn.

Claim 32 now recites:

A method for retaining settings of an audiovisual system, comprising:  
obtaining a setting from a first audiovisual device, wherein said first  
audiovisual device is communicatively coupled to a second audiovisual device; and  
storing said setting to said second audiovisual device upon a save event;  
*wherein said save event comprises actuating a control button for a  
predetermined period of time.*  
(Emphasis added).

Similarly, claim 48 recites:

Processor-readable instructions stored on a processor-readable medium, such  
that said instructions, when executed, cause a processor to:  
obtain a setting from a first audiovisual device, wherein said first audiovisual  
device is communicatively coupled to a second audiovisual device; and  
store said setting to said second audiovisual device upon a save event;  
*wherein said save event comprises actuating a control button for a  
predetermined period of time.*  
(Emphasis added).

Support for the amendment to claims 32 and 48 can be found in Applicant's originally filed specification at, for example, paragraph 0034.

In contrast, Humpleman fails to teach or suggest this subject matter. In particular, Humpleman does not teach or suggest a save event that comprises actuating a control button for a predetermined period of time. Moreover, Applicant notes that the recent Office Action does not indicate how or where the subject matter is taught or suggested by any of the cited prior art references.

"A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed.

40000-0046

10/727,134

Cir. 1987). See M.P.E.P. § 2131. Therefore, for at least the reasons explained here, the rejection based on Humpleman of claims 32 and 48 and their respective dependent claims should be reconsidered and withdrawn.

Claim 60 has been amended to recite the following:

A system for controlling the settings of an audiovisual system, comprising:  
means for communicatively coupling a first audiovisual device to a second audiovisual device;  
means for obtaining a setting from said first audiovisual device; and  
means for storing said setting to said second audiovisual device upon a save event;  
*wherein said save event includes a shutdown of at least one of said first audiovisual device and said second audiovisual device; and*  
*wherein said second audiovisual device automatically saves said setting upon said shutdown.*

(Emphasis added).

As demonstrated above with respect to claim 1, this highlighted subject matter is not taught or suggested by the prior art of record. Therefore, the rejection of claim 60 and its dependent claim should be reconsidered and withdrawn.

Claims 6, 7, 37, 38, 53 and 54 were rejected under 35 U.S.C. § 103(a) over the combined teachings of Humpleman and Kearns. Additionally, claims 12, 27-29, 43 and 59 were rejected under 35 U.S.C. § 103(a) over the combined teachings of Humpleman, Kamieniecki and Kearns. This rejection is respectfully traversed for the same reasons given above, namely that the Official Notice taken does not, in fact, address the subject matter claimed. Therefore, these rejections should also be reconsidered and withdrawn.



40000-0046

10/727,134

Conclusion:

In view of the foregoing arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicant reserves the right to set forth further arguments in future papers supporting the patentability of any of the claims, including the separate patentability of the dependent claims not explicitly addressed herein. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.

The absence of a reply to a specific rejection, issue or comment in the Office Action does not signify agreement with or concession of that rejection, issue or comment. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

If the Examiner has any comments or suggestions which could place this application in better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

40000-0046

RECEIVED  
CENTRAL FAX CENTER

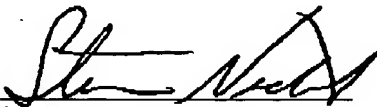
10/727,134

FEB 28 2008

If any fees are owed in connection with this paper that have not been elsewhere authorized, authorization is hereby given to charge those fees to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC.

Respectfully submitted,

DATE: February 28, 2008



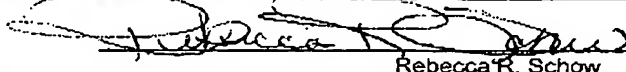
Steven L. Nichols  
Registration No. 40,326

Steven L. Nichols, Esq.  
Managing Partner, Utah Office  
**Rader Fishman & Grauer PLLC**  
River Park Corporate Center One  
10653 S. River Front Parkway, Suite 150  
South Jordan, Utah 84095

(801) 572-8066  
(801) 572-7666 (fax)

## CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted to the Patent and Trademark Office facsimile number (571) 273-8300 on February 28, 2008. Number of Pages: 27

  
Rebecca R. Schow